C-482 NO. 28 OF 2004

Hon'ble Irshad Hussain, J.

Heard Sri K.S.Verma learned counsel for the applicant and Sri K.S.Rautela Brief Holder for the State.

Petitioner has preferred this petition seeking indulgence of the court so that the petitioner who is facing trial and is an accused in Sessions Trial No. 104/2002 pending before the Sessions Judge, Dehradun may not be summoned in person to answer the question under section 313 Code of Criminal Procedure. The application for exemption moved on behalf of the petitioner-accused was rejected by the Sessions Judge on 16-12-2003. However there is nothing in the order as may indicate that the prayer of the petitioner for permission to have the statement under section 313 Cr.P.C. recorded through the counsel was rejected.

Considering this the petition lack merit and is disposed of accordingly with the following observation:-

However it is directed that the petitioner shall move a fresh application seeking exemption of the petitioner-accused from appearing in person to give statement U/s 313 Cr.P.C. and the decision of the Supreme Court cited here may be brought to the notice of the Sessions Judge at the time of the disposal of the application. The learned Sessions Judge shall take into account the mandate of the Supreme Court while disposing of the said application.

Dt: 1-03-2004 **(Irshad Hussain, J.)**

ISB